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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/573,104	03/23/2006	Eduardo Nebot	50002/40454	8922
57726 7590 05/27/2008 MILLER, MATTHIAS & HULL ONE NORTH FRANKLIN STREET SUITE 2350 CHICAGO, IL 60606				
EXAMINER				
SHEDRICK, CHARLES TERRELL				
ART UNIT		PAPER NUMBER		
2617				
MAIL DATE		DELIVERY MODE		
05/27/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/573,104

Applicant(s)

NEBOT ET AL.

Examiner

CHARLES SHEDRICK

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 13-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/55/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

It is noted, with respect to claims 17-18 and 21, that the language used by the Applicant merely suggests or makes optional those features described as "adapted to": it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re Hutchinson, 69 USPQ 138.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims **13-18 and 21** are rejected under 35 U.S.C. 102(b) as being anticipated by Troemel WO 02/25968 A1.

Consider **claim 13**, Troemel teaches a virtual wireless computer network including a plurality of stations arranged to interface with each other by wireless communication in two or more regions (e.g., **a virtual pipe between source and destination**)(see at least abstract, page lines 15-20, page 6 lines 23-25, page 12 lines 18-22, see also figures 3 and 4), at least one of said regions being beyond normal wireless communication range of other said regions (e.g., **outside network**) see at least the abstract, page 4 line 16 - 5 line 7), and wherein at least one station is a mobile station able to travel between regions (e.g., **mobiles 503 504 and 506 of figure 5 can travel**, see also examples from page 4 lines 5-8 and page 13 lines 13-18), said mobile station being adapted to receive and/or transmit information by wireless

communication in one region when in that region, and receive and/or transmit information to other regions when in those regions (e.g., **when mobile passes a base station it will dump data bound for an outside network and the base station will dump data bound for a destination mobile to the passing mobile**)(see at least the abstract, page 4 line 16 - 5 line 7).

Consider **claim 14 and as applied to claim 13**, Troemel teaches wherein one or more of the mobile stations is located in a vehicle(e.g., **mobiles 503 504 and 506 of figure 5 can travel, see also examples from page 4 lines 5-8 and page 13 lines 13-18**).

Consider **claim 15 and as applied to claim 13**, Troemel teaches wherein one or more of the mobile stations is located on a person able to travel between regions(e.g., **see examples from page 4 lines 5-8 and page 13 lines 13-18**).

Consider **claim 16 and as applied to claim 13**, Troemel teaches wherein at least one of the stations is hard wire connected to a backbone system (e.g., **see page 10 line 7- page 11 line 11 and page 11 line 23- page 12 line 6 in addition to related examples of the specification regarding various device types**).

Consider **claim 17 and as applied to claim 13**, Troemel teaches wherein the stations include slow moving stations primarily adapted to be operating within regions, and fast moving stations primarily intended to be moving between regions (e.g., walking individuals and cars) (e.g., **see examples from page 4 lines 5-8 and page 13 lines 13-18**).

Consider **claim 18 and as applied to claim 13**, Troemel teaches wherein the network is also adapted to be used as a safety alert system providing advice to the operator of a station of the presence of other stations that may be in the immediate proximity (e.g., **see note above regarding intended use in addition to equivalent usage recited on page 4 lines 8-12**).

Consider **claim 21**, Troemel teaches a method of communicating information comprising the steps of providing a virtual wireless network as claimed in claim 13, and using that network to transfer information between regions (e.g., **a virtual pipe between source and destination**)(**see at least abstract, page lines 15-20, page 6 lines 23-25, page 12 lines 18-22, see also figures 3 and 4**).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 19-20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Troemel WO 02/25968 A1 in view of Kyrtos et al. US Patent No.: 5,375,059.

Consider **claim 19 and as applied to claim 18**, Trommel teaches the claimed invention except wherein the velocities of each of the stations are taken into account and a warning given to the operator appropriate to the danger detected.

However, in analogous art, Kyrtos teaches wherein the velocities of each of the stations are taken into account and a warning given to the operator appropriate to the danger detected (**e.g., see speed control and autonomous versus manual control in col. 79 and 80**).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time invention was made to modify Trommel to include wherein the velocities of each of the stations are taken into account and a warning given to the operator appropriate to the danger detected for the purpose of assessing vehicle position as taught by Kyrtos.

Consider **claim 20 and as applied to claim 19**, Trommel teaches when provided to the operator of an oversize off-road haul truck and wherein both the velocity of the haul truck, and the position of any potential intruders in the vicinity of the haul truck are taken into consideration (**e.g., the system applied to a stolen vehicle also military uses reads on oversize off-road haul trucks and potential intruders**)(page 4 lines 5-15).

However, in analogous art, Kyrtos teaches wherein the velocities of each of the stations are taken into account and a warning given to the operator appropriate to the danger detected (**e.g., see speed control and autonomous versus manual control in col. 79 and 80**).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time invention was made to modify Trommel to include wherein the velocities of each of the stations are taken into account and a warning given to the operator appropriate to the danger detected for the purpose of assessing vehicle position as taught by Kyrtos.

Consider **claim 22 and as applied to claim 21**, Trommel teaches the claimed invention except when used in a mining environment.

However, in analogous art, Kyrtos teaches when used in a mining environment (e.g., see **col. 9 line 16**).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time invention was made to modify Trommel to include a mining environment for the purpose of assessing vehicle position as taught by Kyrtos.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHARLES SHEDRICK whose telephone number is (571)272-8621. The examiner can normally be reached on Monday thru Friday 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harper Paul can be reached on (571)-272-7605. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/VINCENT P. HARPER/
Supervisory Patent Examiner, Art Unit 2617

/Charles Shedrick/
Examiner, Art Unit 2617
May 8, 2008